

Notice of Allowability

Application No.

10/520,223

Examiner

Christina Russell

Applicant(s)

BARRY, JAMES ANTHONY

Art Unit

2837

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed 5/9/2006.
2. ☒ The allowed claim(s) is/are 1-5, 7-14, 16-19 and 21.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


LINCOLN DONOVAN
SUPERVISORY PATENT EXAMINER

DETAILED ACTION

Drawings

The amendments made to Figures 9A-B, 10-15, 17, and 18 are accepted.

Specification

The amendments to the specification made on pages 9, 11, 12, 15, 16, 18, 22, 23, and 24 are accepted.

The cancellation of claims 6, 15, and 20 are accepted.

The cancellation of claims 15 and 20 allows for the withdrawal of the claim objection made to claim 15, and the USC 112 rejection made to claim 20.

Allowable Subject Matter

1. Claims 1-5, 7-14, 16-19, and 21 are allowed.
2. The following is an examiner's statement of reasons for allowance:
3. The prior art relied upon in the first office action rejection by Barry (WO 01/95052), Juskiewicz et al. (5,455,381), and De Armond et al. (2,986,953) no longer

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teach all the claimed elements of the independent claim 1, or it's dependent claims, and no other prior art references could be found that teach said claimed elements, therefore the independent claim and its dependent claims are considered allowable.

4. In terms of claim 1, and its dependent claims, the applicant is correct in pointing out that the Barry publication does not allow a single note of an assigned chord to be played by plucking a single string only, instead Barry teaches all the strings coupled to the same transducer, and plucking or strumming any one string plays whatever chord may be assigned. Further, as can be inferred from above, Barry does not teach a series of uncoupled independent transducers, each associated with a different string to convert strumming or plucking of an individual source or string, but teaches only of a single magnetic pickup coupled to all the strings.

5. In addition, neither the Juskiewicz patent nor the De Armond patent teaches an apparatus with a control unit associated with the digital musical instrument which includes a plurality of independent, uncoupled transducers, each of which is used to independently activate an electrical signal associated with one string, which is assigned a note in accordance with a user-selected digital audio file and the user-selected state of the control members.

6. In conclusion, as stated by the applicant, neither the Barry publication, nor the Juskiewicz patent, nor the De Armond patent either alone or in combination teaches or suggests a central control unit with a suite of software for assigning a musical note to a user-activated source or string in accordance with an assigned digital audio file, which is selectable by a user activating the ON state of the corresponding limited state control

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member, where one of a plurality of independent, uncoupled transducers monitors the one string and converts activation of the one string into electrical signals associated with the assigned musical note.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christina Russell whose telephone number is 571-272-4350. The examiner can normally be reached on Mon-Fri, 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lincoln Donovan can be reached at phone number 571-272-1988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CR
6/3/2006


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